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FISCAL IMPACT STATEMENT

LS 7401

BILL NUMBER: SB 542

NOTE PREPARED: Jan 19, 2009

BILL AMENDED:

SUBJECT: Ignition Interlock Devices.

FIRST AUTHOR: Sen. Steele

FIRST SPONSOR:

BILL STATUS: As Introduced

**FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Probationary Driving Privileges* – It changes the requirements and lengths of time for which a court must order probationary driving privileges subject to the condition that a person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device. It requires a person who is granted probationary driving privileges subject to the condition that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device to pay all costs associated with the installation of an ignition interlock device.
- B. *Mandatory Imprisonment or Community Service* – It requires a person convicted of certain operating while intoxicated offenses to be imprisoned for at least five days or to perform at least 180 hours of community restitution or service.
- C. *Employer-Owned Vehicles* – It allows a court to order a person convicted of OWI (but not a per se violation) to have an employer-owned vehicle installed with an ignition interlock device.
- D. *Monthly Reports* – It requires an ignition interlock device manufacturer to submit monthly reports of device failures to the Bureau of Motor Vehicles (BMV).

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Employer-Owned Vehicles* – If a state employee is guilty of OWI while operating a state-owned vehicle, the sentencing court could order the vehicle to have an ignition interlock device installed. The average fee for installing an ignition interlock device is between \$70 and \$100, and the average cost of maintaining the device is between \$30 and \$60 per month.

Per Se and OWI Violations – Per se violations occur when a person’s blood alcohol content is measured at or above 0.08. OWI violations are based on the observed behavior of a person who is suspected of being intoxicated. In CY 2007, the Bureau of Motor Vehicles reported 8,653 guilty citations for operating while intoxicated under the per se section and 21,763 guilty citations under the “observed behavior” section of statute.

Explanation of State Revenues:

Explanation of Local Expenditures: This bill is expected to result in minimal costs to counties of regarding probationary driving privileges. Counties do not incur any additional cost when a court orders a person convicted of operating a vehicle while intoxicated to install and maintain an ignition interlock system. Persons who are ordered to install and properly maintain an ignition interlock system on their car pay the entire costs of the operation. The average fee for installing an ignition interlock device is between \$70 and \$100, and the average cost of maintaining the device is between \$30 and \$60 per month. While current law does not require indigent persons convicted of OWI to pay to have an ignition interlock device installed, courts are not required to pay the cost of installing and maintaining an ignition interlock device, either.

Under current law, courts can suspend a person's driving privileges or order the use of an ignition interlock device as a condition of probationary driving privileges if the person did not refuse the test and has no prior OWI convictions within the previous ten years. Any other person with an OWI offense that has occurred within ten years is required to have an ignition interlock device installed during the probationary period. (IC 9-30-5-16) A court may substitute an alcohol treatment program using disulfuram or a similar substance in lieu of installing ignition interlock devices in the vehicles of drivers with prior OWIs.

As proposed, any time the sentencing court grants probationary driving privileges, the court must order that an ignition interlock device be installed in a first-time offender’s car for the length of time that the offender is granted probationary driving privileges. In addition, a court may *not* substitute an alcohol treatment program using disulfuram or a similar substance in lieu of installing ignition interlock devices in the vehicles of drivers with prior OWIs. (Disulfiram is described below).

Based on the number of suspensions of persons convicted of OWI with no prior OWI offenses, 17,000 to 20,000 new persons could be ordered to have an ignition interlock device installed in the car they are driving if they wish to retain their driving privileges.

New License Suspensions by Calendar Year of Persons with No Prior OWI Offenses				
2003	2004	2005	2006	2007
17,029	16,741	16,261	14,396	20,048

As an illustration, LSA estimates that in 2007, 5,645 OWI offenders could be indigent based on the percentage of misdemeanants who qualified for pauper attorney services in 2007 ($55,133 \text{ pauper cases} \div 195,360 \text{ cases disposed} = 28\% \times 20,000 = 5,645$). While counties would not be obligated to pay for the costs of installing and operating these ignition interlock devices, the added costs could range between \$1.4 M and \$2.6 M if counties actually paid for these costs.

In an informal survey, Criminal Justice Institute staff reported that courts in the following counties routinely order ignition interlock devices for OWI offenders:

- Warrick County
- Dearborn County
- Saint Joseph County
- Tippecanoe County
- Porter County
- Clark County

Use of Disulfuram – Disulfuram is a drug that causes severe (but temporary) physical distress for persons who consume alcohol after taking the drug. Under current law, a court can only order an OWI offender to use disulfuram when the offender has had an OWI conviction within the past five years. Few courts currently use disulfuram as part of an alcohol treatment program.

Mandatory Imprisonment or Community Service – The bill requires a person convicted of OWI to be imprisoned for at least five days or to perform at least 180 hours of community restitution or service. The number of arrests for OWI with 0.15 blood alcohol content (BAC) cannot be determined. Consequently, the effects on county jails cannot be determined.

IC 9-30-5-1 specifies that OWI offenders with a blood alcohol content exceeding 0.08 commit a misdemeanor. Persons convicted of an OWI when their BAC is more than 0.08 and less than 0.15 commit a Class C misdemeanor. Persons convicted of an OWI when their BAC exceeds 0.15 commit a Class A misdemeanor.

BMV reports both guilty citations in one number. In 2007, BMV reported 8,653 guilty citations. *This portion of the fiscal note will be updated if more information becomes available about the proportion of citations that are equal to or exceed 0.15 BAC.*

Employer-Owned Vehicles – If an employee of a local unit of government is guilty of OWI while operating a vehicle owned by the unit of government, the sentencing court could order the vehicle to have an ignition interlock device installed.

Explanation of Local Revenues:

State Agencies Affected: Department of Administration.

Local Agencies Affected: Courts with OWI jurisdiction; county sheriffs; all local units of government that own vehicles.

Information Sources: BMV; Dan Jeffries, Criminal Justice Institute; Jennifer Weber, Indiana Judicial Center; *2007 Indiana Judicial Report*.

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